

Article - State Government

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§10–219.

(a) (1) Except as provided in paragraph (2) of this subsection, a presiding officer may not communicate ex parte directly or indirectly regarding the merits of any issue in the case, while the case is pending, with:

(i) any party to the case or the party's representative or attorney; or

(ii) any person who presided at a previous stage of the case.

(2) An agency head, board, or commission presiding over a contested case may communicate with members of an advisory staff of, or any counsel for, the agency, board, or commission who otherwise does not participate in the contested case.

(b) If, before hearing a contested case, a person receives an ex parte communication of a type that would violate subsection (a) of this section if received while conducting a hearing, the person, promptly after commencing the hearing, shall disclose the communication in the manner prescribed in subsection (c) of this section.

(c) An individual who is involved in the decision making process and who is personally aware of an ex parte communication shall:

(1) give notice to all parties;

(2) include in the record of the contested case:

(i) each written communication received;

(ii) a memorandum that states the substance of each oral communication received;

(iii) each written response to a communication; and

(iv) a memorandum that states the substance of each oral response to the communication; and

(3) send to each party a copy of each communication, memorandum, and response.

(d) A party may rebut an ex parte communication if the party requests the opportunity to rebut within 10 days after notice of the communication.

(e) (1) To eliminate the effect of an ex parte communication that is made in violation of this section, the presiding officer or, if the presiding officer is a multimember body, the individual board or commission member, may:

(i) withdraw from the proceeding; or

(ii) terminate the proceeding without prejudice.

(2) An order to terminate the proceeding without prejudice shall state the last date by which a party may reinstitute the proceeding.

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